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Attorneys for Plaintiff Wells Fargo Bank, N.A.

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re

TIMOTHY DAVID MURPHY,

Debtor.

Case No. 6:17-bk-20442-MW

Chapter 11

Adv No. 6:18-ap-____

COMPLAINT IN INTERPLEADER

WELLS FARGO BANK, N.A., a national
banking association,

Plaintiff,

vs.

TIMOTHY DAVID MURPHY, LYNDA T.
BUI, as Trustee, PATRICK KEITH
LAFFERTY, and MARY JANE LAFFERTY,

Defendants.

Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") alleges:

1. This is a complaint in interpleader under Federal Rule of Bankruptcy Procedure
7022 and Federal Rule of Civil Procedure 22.

2. Wells Fargo is the judgment debtor in an action entitled *Patrick and Mary Lafferty
v. Fleetwood Motor Homes, et al.*, No. STK-CV-UBC-2006-0013311 (formerly No. CV 030892)

1 in the Superior Court of the State of California for San Joaquin County (“Lafferty Action”).

2 3. On September 28, 2015, an amended judgment was entered in the Lafferty Action,
3 awarding plaintiffs Patrick Keith Lafferty and Mary Jane Lafferty \$40,596.93 in prejudgment
4 interest and \$8,384.33 in costs. A true copy of the amended judgment is attached as Exhibit A.

5 4. Wells Fargo appealed from the amended judgment. The awards of prejudgment
6 interest and costs were affirmed on appeal. *Lafferty v. Wells Fargo Bank, N.A.*, 25 Cal.App.5th
7 398, 414-416, 428 (2018). On November 1, 2018, the California Court of Appeal for the Third
8 Appellate District issued its remittitur, ending the appeals in the Lafferty Action.

9 5. Wells Fargo now wishes to pay the prejudgment interest and costs awarded by the
10 amended judgment in the Lafferty Action, together with accrued post-judgment interest, and
11 receive a full satisfaction of that judgment.

12 6. Each of the defendants named in this complaint does or may claim an interest in the
13 sums Wells Fargo owes under the amended judgment in the Lafferty Action.

14 a. Patrick Keith Lafferty and Mary Jane Lafferty (the “Laffertys”) were the
15 plaintiffs in the Lafferty Action. The amended judgment is in their favor
16 and awards them prejudgment interest and costs.

17 b. Timothy David Murphy (“Murphy”) was the Laffertys’ attorney in the
18 Lafferty Action. Wells Fargo is informed and believes, and thereon alleges,
19 that under an agreement he entered into with the Laffertys, Murphy has or
20 claims an interest in the sums Wells Fargo owes under the amended
21 judgment.

22 c. Lynda T. Bui (“Bui”) has been appointed the bankruptcy trustee in
23 Murphy’s Chapter 7 bankruptcy case. On November 2, 2018, Bui informed
24 Wells Fargo that, as trustee, she intends to assert an interest in the sums
25 Wells Fargo owes under the amended judgment in the Lafferty Action.

26 7. The defendants’ conflicting claims to the sums due under the amended judgment in
27 the Lafferty Action expose Wells Fargo to the potential of double or multiple liability.

1 **Jurisdiction and Venue**

2 8. This Court has subject matter jurisdiction over this adversary proceeding pursuant
3 to 28 U.S.C. §§ 157(b), (c) and 1334(b) as it is a civil adversary proceeding arising in or related to
4 Murphy's Chapter 7 bankruptcy case.

5 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a) as this adversary
6 proceeding arises in or is related to Murphy's Chapter 7 bankruptcy case which is pending in this
7 Court.

8 **Parties**

9 10. Well Fargo is a national banking association. It is a citizen of the State of South
10 Dakota where its main office is located, as designated in its articles of association.

11 11. Timothy David Murphy is the debtor in this Chapter 7 case. He is an attorney
12 licensed to practice law in the State of California. He represented the Laffertys in the Lafferty
13 Action.

14 12. Lynda T. Bui is the Chapter 7 trustee, appointed by this Court to administer
15 Murphy's bankrupt estate. She is sued in this action solely in her capacity as trustee of the estate
16 in this Chapter 7 case.

17 13. Patrick Keith Lafferty and Mary Jane Lafferty were the plaintiffs in the Lafferty
18 Action.

19
20 **CLAIM FOR INTERPLEADER**
 (Federal Rule of Bankruptcy Procedure 7022)

21 14. Wells Fargo realleges and incorporates by this reference the allegations of para-
22 graphs 1-13 above.

23 15. Each defendant has asserted or may assert that he or she is entitled to the sums
24 Wells Fargo owes under the amended judgment in the Lafferty Action. Defendants' claims to
25 those sums conflict with each other. Each defendants has made or may make demand on Wells
26 Fargo to pay him or her the sums owed under the amended judgment in the Lafferty Action or
27 may seek to execute on that judgment.

28 16. By reason of defendants' conflicting claims, Wells Fargo is in great doubt as to

1 which defendant is entitled to payment of some or all of the sums owed under the amended judg-
2 ment in the Lafferty Action.

3 17. By reason of defendants' conflicting claims, Wells Fargo is at risk of being sub-
4 jected double or multiple liability and to conflicting judicial orders of this Court and of the court in
5 the Lafferty Action regarding payment of sums owed under the amended judgment in the Lafferty
6 Action.

7 18. Wells Fargo is indifferent with respect to which party is entitled to sums owed
8 under the amended judgment in the Lafferty Action.

9 19. Wells Fargo is unable to safely determine which parties' claim to the sums owed
10 under the amended judgment in the Lafferty Action is valid.

11 20. Wells Fargo has incurred attorneys' fees and costs as a result of this proceedings
12 WHEREFORE, Wells Fargo prays for:

13 1. An Order to interplead the sums owed under the amended judgment in the Lafferty
14 Action into the registry of the Court.

15 2. An order discharging Wells Fargo of all liability under the amended judgment in
16 the Lafferty Action upon Wells Fargo's payment into this Court's registry of the sums owed under
17 that amended judgment.

18 3. An order directing the Laffertys and Murphy to execute and file in the Lafferty
19 Action a full satisfaction of the amended judgment in that action upon Wells Fargo's payment into
20 this Court's registry of the sums owed under that amended judgment.

21 4. An order enjoining the Laffertys and Murphy from executing on or otherwise
22 enforcing or attempting to enforce the amended judgment in the Lafferty Action during the
23 pendency of this adversary proceeding.

24 5. An order awarding Wells Fargo its reasonable attorneys' fees and costs incurred in
25 pursuing the interpleader remedy from the sums owed under the amended judgment in the Lafferty
26 Action in an amount to be determined by the Court.

27 6. An order dismissing Wells Fargo from this action upon depositing the sums owed
28 under the amended judgment in the Lafferty Action into the registry of the Court.

1 7. Such other and further relief as the Court deems just and proper.

2
3 DATED: November 5, 2018

SEVERSON & WERSON
A Professional Corporation

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6 By: /s/ Donald H. Cram
Donald H. Cram

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8 Attorneys for Plaintiff Wells Fargo Bank, N.A.